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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,613	01/24/2002	Toshihiro Takagi	3064IT/50862	4734

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Crowell & Moring, L.L.P.
P.O. Box 14300
Washington, DC 20044-4300

EXAMINER

YENKE, BRIAN P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,613

Applicant(s)

TAKAGI ET AL.

Examiner

BRIAN P. YENKE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment (03 Nov 04).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed 03 November 2004 have been fully considered but they are not persuasive.

Applicant's Arguments

a) Applicant states that the office action concludes that if there were more channels per row, the left/right keys in addition to the up/down keys would also be used. The applicant states that no prior art reference was provided that illustrates this more channels per row.

b) Applicant states that the office action has not explained why one skilled in the art would have ignored the express disclosure of the admitted prior art and Schneidewend of listing main channels and sub-channels on the vertical axis, instead of allowing a user to peruse "the main or main/sub-channels via up/down and left/right keys."

Examiner's Response

a) The examiner has included US 6,817,027 which discloses (Fig 2) which lists multiple row/columns for the channel list, where the user can use up/down or left/right controls to scroll through the channels.

b) As stated below, the layout of channel/guide information is based upon the users needs/desires. For instance if a menu merely displayed channels in a column format where each row had only one channel number listed, the up/down keys would be utilized. Thus if there were more channels per row, the left/right keys in addition to the up/down keys would also be used. Therefore, it would have been obvious to one of

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ordinary skill in the art at the time of the invention to modify AAPA and Kishtaka which discloses an analog/digital receiver which displays the received broadcasts channels and allows the user to peruse a menu/OSD by using a plurality of directional keys, with Schneidewend by allowing the viewer the option of perusing the main or main/sub-channels via up/down and left/right keys, which gives the viewer the ability to quickly gauge any programs of interest. Thus the alignment of channels either vertically or horizontally, is a matter of design choice and thus bears no patentable weight, where based upon the layout will prescribe the function keys to select/activate. The position of the examiner is rearranging a layout of a menu which has assigned channels, and utilizing notoriously well known commands (up/down, right/left) within the menu, is not inventive, since there are no unexpected results, since a menu can include a variety number of rows and/or columns.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art (AAPA) in view of Kishtaka et al., US 6,084,643 and Schneidewend et al., US 6,249,320.

In considering claims 1-2 and 6,

Regarding the limitations of a digital/analog receiver, including the claimed receiving device, the claimed digital/analog decoder, the claimed memory, the claimed control unit, the claimed input device (limitations e-f) and the claimed control unit are all met by AAPA, which discloses a system which performs the conventional features/limitations as claimed and an OSD display which displays main/subchannels of received broadcasts (Fig 5).

However, AAPA does not disclose the input device having up/down keys and right/left keys which are assigned for main channel and sub-channel switch-over respectively, and where the control unit preferentially selects the smallest channel number when there are a plurality of sub-channels.

Although the use of an input device (i.e. remote) having up/down and right/left keys is notoriously well known in the art, the examiner nonetheless incorporates Kishtaka et al., US 6,084,643 which discloses such a remote where keys (Fig 4) 88,89,91,90 correspond to up, down, right and left respectively. Kishtaka discloses that these keys are operated when the user wants to shift the cursor into a desired position (i.e. left, right, down and up) (col 5, line 48-57).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify AAPA which discloses an analog/digital receiver which displays the received main/sub-channels with Kishtaka by allowing the user to move the cursor anywhere on the menu, via up/down and left/right keys, in order to give the user freedom in selecting a desired program.

Regarding the actual layout of the OSD display which displays the main/sub-channels. Neither AAPA nor Kishtaka explicitly recite the structure/format in displaying the main/sub-channels.

Although, menu's can be designed to suit the particular needs of the viewer, where a menu can be customized for the viewer, by layout means and by the data included in the menu (i.e. favorites, related programs, low to high numbers etc). The examiner will incorporate, Schneidewend et al., US 6,249,320 which provides an on-screen display to the user and gives the user the option of perusing thru sub-channels and main channels (Fig 12) or just through the main channels (Fig 13). Thus based upon the layout, where channel numbers can be listed in column/row order, would determine which directional keys to use. For instance if a menu merely displayed channels in a column format where each row had only one channel number listed, the up/down keys would be utilized. Thus if there were more channels per row, the left/right keys in addition to the up/down keys would also be used. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify AAPA and Kishtaka which discloses an analog/digital receiver which displays the received broadcasts channels and allows the user to peruse a menu/OSD by using a plurality of directional keys, with Schneidewend by allowing the viewer the option of perusing the main or main/sub-channels via up/down and left/right keys, which gives the viewer the ability to quickly gauge any programs of interest.

In considering claim 3,

As stated above, if there are a plurality of sub-channels, typically the display will provide them in ascending order (low to high, i.e. channel 2, 3 etc).

In considering claims 4-5 and 7

As stated above, the layout of channel/guide information is based upon the users needs/desires. Thus the alignment of channels either vertically or horizontally, is a matter of design choice and thus bears no patentable weight, where based upon the layout will prescribe the function keys to select/activate.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure—see newly cited references on attached form PTO-892.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (571)272-7352.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

General information about patents, trademarks, products and services offered by the United States Patent and Trademark Office (USPTO), and other related information is available by contacting the USPTO's General Information Services Division at:

800-PTO-9199 or 703-308-HELP

(FAX) 703-305-7786

(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are available to answer questions, send materials or connect customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.


For other technical patent information needs, the Patent Assistance Center can be reached through customer service representatives at the above numbers, Monday through Friday (except federal holidays) from 8:30 a.m. to 5:00 p.m. EST/EDT.

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The Patent Electronic Business Center (EBC) allows USPTO customers to retrieve data, check the status of pending actions, and submit information and applications. The tools currently available in the Patent EBC are Patent Application Information Retrieval (PAIR) and the Electronic Filing System (EFS). PAIR (<http://pair.uspto.gov>) provides customers direct secure access to their own patent application status information, as well as to general patent information publicly available. EFS allows customers to electronically file patent application documents securely via the Internet. EFS is a system for submitting new utility patent applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.


B.P.Y.

24 March 2005


BRIAN P. YENKE
Primary Examiner
Art Unit 2614